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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/679,519 | 10/06/2003 | Yoshiharu Koda | 2462-138US | 3999 |

7590 01/10/2005

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| EXAMINER |
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KASZTEJNA, MATTHEW JOHN

| ART UNIT | PAPER NUMBER |
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3739

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|--|------------------------------------|--|
| Office Action Summary | Application No. 10/679,519 | Applicant(s) KODA ET AL. | |
| | Examiner Matthew J Kasztejna | Art Unit 3739 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 9-25 is/are rejected.
- 7) ☒ Claim(s) 6-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "the," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 10-18 and 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,699,178 to Koda et al. in view of U.S. Patent No. 4,785,796 to Mattson.

In regards to claims 1 and 16, Koda et al. disclose an endoscopic auditory canal cleaning apparatus comprising: a light source 22 for generating light, an ear picking main body 13 so formed as to guide the light generated by the light source to be

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guided to the leading terminal thereof, an ear picking part 16, an image incorporating means 14 for taking in an image of the interior of the auditory canal radiated by the light guided to the leading terminal of the ear picking main body, a display means 300 for displaying the image incorporated by the image incorporating means, and a holding means 11 furnished with a hollow mouth to be penetrated by the image incorporating means and allowed to rotate freely around the image incorporating means as the central axis with the ear picking main body kept in a held state (see Col. 1, Lines 25-50), but is silent with respect to an "ear picking part furnished with a surface layer made of a fibrous material adapted to be disposed in the ear picking main body by exposing the leading terminal." Mattson teaches of an analogous endoscopic auditory canal cleaning apparatus having an absorbent sock 204 made from cotton or a similar sterile absorbent material which can be used to remove fluid or samples (see Col. 6, Line 57 – Col. 7, Line 6). It would have been obvious to one skilled in the art at the time the invention was made to furnish the ear picking part in the apparatus of Koda et al. with a fibrous material in order to provide a means for the removal of fluids or culture samples from the ear canal as taught by Mattson.

In regards to claim 2, Koda et al. disclose an endoscopic auditory canal cleaning apparatus which further comprises a light guide 13 for guiding the light generated by the light source to the leading terminal and radiating the interior of the auditory canal (see Col. 6, Line 66 – Col. 7, Line 2).

In regards to claims 3 and 17, Koda et al. disclose an endoscopic auditory canal cleaning apparatus wherein the radiating part of the light guide and the image

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incorporating part of the image incorporating means protrude from the holding means in nearly same amounts (see Fig. 10).

In regards to claims 4 and 18, Koda et al. disclose an endoscopic auditory canal cleaning apparatus wherein the ear picking main body 212 is removable from the holding means (see Col. 7, Lines 41-50).

In regards to claims 5, 13-14 and 23-24, Koda et al. disclose an endoscopic auditory canal cleaning apparatus but is silent with respect to wherein the ear picking part is removable from the ear picking main body. Mattson teaches of an analogous endoscopic auditory canal cleaning apparatus having multiple curettes 12, 12', 12" and 12''' having corresponding coupling means easily and removably attached to otoscope 10 having coupling means 56. It would have been obvious to one skilled in the art at the time the invention was made to have a removable ear picking part with various configurations in the apparatus of Koda et al. in order to aid in the cleaning of the instrument and to provide interchangeable and disposable ear picking parts as taught by Mattson.

In regards to claims 10 and 20, Koda et al. disclose an endoscopic auditory canal cleaning apparatus wherein the ear picking part is disposed within the field of view of the image incorporating means (see Col. 7, Lines 12-40).

In regards to claims 11 and 21, Koda et al. disclose an endoscopic auditory canal cleaning apparatus wherein the image incorporating means is a fiber scope 14 furnished at the leading terminal thereof with an image micro lens 23 and the display

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part causes an image picked up by the image micro lens to be displayed as magnified (see Col. 3, Lines 28-40).

In regards to claims 12 and 22, Koda et al. disclose an endoscopic auditory canal cleaning apparatus wherein the image incorporating means is an image sensor 32 and the display part subjects the signal from the image sensor to image processing and displays the image consequently formed (see Col. 3, Lines 40-67).

In regards to claims 15 and 25, Koda et al. disclose an endoscopic auditory canal cleaning apparatus which further comprises a mechanism of movement for causing the ear picking main body revolved around the image incorporating means in consequence of the rotation of the holding means to be rotated as interlocked or not interlocked with the revolution (see Figs. 14-15 and Col. 8, Lines 58-68).

3. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,699,178 to Koda et al. in view of U.S. Patent Application Publication No. 2003/0187331 to Faludi et al.

In regards to claims 9 and 19, Koda et al. disclose an endoscopic auditory canal cleaning apparatus but is silent with respect to wherein a plurality of light sources are provided. Faludi et al. teach of an analogous device having a plurality of light emitting diodes 32 to generate light (see Fig. 3). It would have been obvious at the time the invention was made to include a plurality of light sources in the device of Koda et al. in order to provide better overall lighting to the ear canal for observation and imaging as taught by Faludi et al. and is well known in the art.

Allowable Subject Matter

4. Claims 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,306,084 to Pinczower

U.S. Patent No. 4,572,180 to Deenadayalu

U.S. Patent No. 5,133,721 to Angulo

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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BEVERLY M. FLANAGAN
PRIMARY EXAMINER